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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|------------------------------|-------------|----------------------|---------------------|------------------|
| 10/040,566 | 01/07/2002 | David J. Cash | LEAP: 109_US_ | 1456 |
| 24041 | 7590 | 12/30/2003 | EXAMINER | |
| SIMPSON & SIMPSON, PLLC | | | A, MINH D | |
| 5555 MAIN STREET | | | ART UNIT | |
| WILLIAMSVILLE, NY 14221-5406 | | | PAPER NUMBER | |

2821

DATE MAILED: 12/30/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/040,566

Applicant(s)

CASH, DAVID J.

Examiner

Minh D A

Art Unit

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 08 May 2003.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-11 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-11 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____
- 4) ☐ Interview Summary (PTO-413) Paper No(s). _____
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____

DETAILED ACTION

Claim Rejections - 35 USC § 102

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

2. Claims 1, 4 and 7-9 are rejected under 35 U.S.C. 102(b) as being unpatentable by Ikoh et al (US 5,861,985).

Regarding claims 1,7 and 9, Ikoh discloses the microscope for automatically turning off a source of illumination (17) in a microscope comprising: a switch (19) operatively arranged to control the illumination source ;

the control (4) for sensing inactivity of the switch and for turning off the illumination source after a predetermined time period of inactivity. See figures 1-5. Col.2, lines 33-68 to col.6, lines 1-2.

Regarding claim 4, Ikoh discloses the control (4) having (sensor (3)) for sensing inactivity of the switch (19 or 23) and for turning off the illumination source (17) after a predetermined time period of inactivity comprises a microprocessor. See figure 4.

Regarding claim 8, Ooki discloses the microscope comprising:

at least one switch element (19) operatively arranged to control the power supply (21); and control (4) having sensor (3) for sensing inactivity of the at least one switch element (19 or 23) and for turning off the power supply after a predetermined time period of inactivity. See figure 1-6, col. 2, lines 1-67 to col.5, lines 1-41.

Claim Rejections - 35 USC § 103

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claims 2-3, 5-6 and 10-11 are rejected under 35 U.S.C. 103(a) as being unpatentable over by Ikoh et al (US 5,861,985).

Regarding claims 2-3, Ikoh discloses the claimed invention except for the switch is a mechanical switch or a single pole, single throw switch. It would have been an obvious matter of design choice to have the mechanical switch or the single pole, single throw switch, since applicant has not disclosed that the mechanical switch or the single pole, single throw switch solves any stated problem or is for any particular purpose and it appears that the invention would perform equally well with the switch is a mechanical switch or a single pole, single throw switch.

Regarding claims 5-6, Ikoh discloses the claimed invention except for the digital semiconductor device operatively arranged to sense a logic level at one terminal of the switch or the incandescent light bulb. It would have been an obvious matter of design choice to have the digital semiconductor device operatively arranged to sense a logic level at one terminal of the switch or the incandescent light bulb, since applicant has not disclosed that the digital semiconductor device operatively arranged to sense a logic level at one terminal of the switch or the incandescent light bulb solves any stated problem or is for any particular purpose and it appears that the invention would perform

equally well with the digital semiconductor device operatively arranged to sense a logic level at one terminal of the switch or the incandescent light bulb.

Regarding claims 10-11, Ikoh discloses the claimed invention except for the logic level at one terminal of the switch, and triggering a shutdown of the illumination source when a transition in the logic level occurs or the step of monitoring is done digitally. It would have been an obvious matter of design choice to have the logic level at one terminal of the switch, and triggering a shutdown of the illumination source when a transition in the logic level occurs or the step of monitoring is done digitally, since applicant has not disclosed that the logic level at one terminal of the switch, and triggering a shutdown of the illumination source when a transition in the logic level occurs or the step of monitoring is done digitally solves any stated problem or is for any particular purpose and it appears that the invention would perform equally well with the logic level at one terminal of the switch, and triggering a shutdown of the illumination source when a transition in the logic level occurs and the step of monitoring is done digitally.

Conclusion


The prior art made of record and not relied upon is considered pertinent to applicant's disclosure Watanabe et al (US 6,384,967) and Toshimitsu et al (US 6,133,561) show a microscope.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Examiner Minh A whose telephone number is (703) 605-4247. The examiner can normally be reached on M-F (7:30 –4:30 PM).

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If attempts to reach the examiner by telephone is unsuccessful, the examiner's supervisor, Don Wong, can be reached on (703) 308-4856. The fax phone numbers for the organization where this application or proceeding is assigned are 703-872-9318 for regular communications and (703) 872-9319 for final communications.

Any inquiry of a general nature or relating to the status of this application should be directed to the Technology Center receptionist whose telephone number is (703) 308-0956.



Examiner

Minh A

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12/29/03